

REMARKS

Claims 1-10 are currently pending in this application. Claim 1 is currently amended. Claim 2 is cancelled. Claims 11-13 are added. Accordingly, Claims 1 and 3-13 will be pending after the entry of this amendment.

Support for the amendment to Claim 1 is found in original claim 2 and throughout the specification as originally filed, including, for example, paragraph [0099]. Support for the amendments to claims 11-13 is found, for example, in original claim 1 and [0099] of the specification. No new matter is added.

Amendment of the claims herein is not to be construed as acquiescence to any of the objects/rejections set forth in the Office Action and was done solely to expedite prosecution. Applicants reserve the right to pursue the subject matter of the claims as originally filed or similar claims in this or one or more patent applications.

The Office Action rejects Claims 1-10 under 35 U.S.C. § 103(a) over U.S. Patent No. 6,027,873 to Schellenberger (hereinafter "Schellenberger"), U.S. Patent No. 5,770,860 to Franzen (hereinafter "Franzen"), and U.S. Patent No. 4,682,890 to de Marcario (hereinafter "de Marcario"). Applicants respectfully traverse this rejection.

Schellenberger is directed, in part, to a testing apparatus including a testing plate with a pair of opposing surfaces and a plurality of through holes. Schellenberger discusses loading the plates by immersion in a solution. *Id.*, col. 6, lines 10-30.

Franzen is directed to systems and methods of adapting a "sample support in its size and shape to microtiter plates." Franzen, col. 2, lines 58-60. Franzen uses an array of micropipettes with the same spot spacing as the reaction wells of a microtiter plate. *Id.*, col. 2, lines 66-67. The spot spacing of the micropipettes remains the same and instead relies on interlacing to populate the sample support. *Id.*, col. 3, lines 9-18.

de Macario is directed to a "microsample holder" for spectrophotometers having circular holes "on the order of about 3 mm in diameter" for retaining a liquid sample. de Macario, col. 2, lines 60-65.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation, either in the reference itself or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings; (2) there must be a reasonable

expectation of success; and (3) the prior art reference(s) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaech*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP § 2143.

The cited references, alone or in combination, fail to teach or suggest a method of loading a plurality of liquid samples into a plurality of through-holes from a microtiter plate including the step of stacking a plurality of through-hole arrays in registration.

As discussed above, Schellenberger discusses "dip loading" of a through-hole plate. Schellenberger is silent on a method involving a plurality of through-hole arrays, let alone a method including stacking a plurality of through-hole arrays in registration.

Likewise, Franzen does not teach or suggest a method including stacking a plurality of through-hole arrays in registration. Rather, the concept of stacking a plurality of through-hole arrays in registration is incongruous with the teachings of Franzen. Franzen provides no suggestion that the sample support contains holes of any variety or that a plurality of sample supports may be loaded by stacking. Indeed, a sample support with holes would be problematic at best given that the MALDI process for which Franzen is directed involves bombarding the sample support with short flashes from a pulsed laser. *Id.*, col. 1, lines 24-31.

Finally, de Macario does not teach or suggest a method involving a plurality of through-hole arrays, let alone a method including stacking a plurality of through-hole arrays in registration.

Accordingly, Applicants request reconsideration and withdrawal of the rejection of Claims 1 and 3-10 under 35 U.S.C. § 103(a).

In view of the foregoing, Applicants request reconsideration of all the rejections and allowance of the application with claims 1 and 3-13 presented herein. If a telephone conversation with Applicants' representatives would be helpful to expedite prosecution of the application, Applicants urge the Examiner to telephone the undersigned at the number indicated below.

Applicants believe that no fees or extensions are required other than the fees for a Three-Month Extension of Time and Request for Continued Examination submitted concurrently herewith. However, if for any reason the authorized fee is inadequate, the Office is conditionally authorized and requested to charge Deposit Account No. **04-1105** under order number 65689CPDV(43382). Also, the Office should consider this a conditional petition for the proper extension period needed to have this response entered and considered, if any.

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Respectfully submitted,

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